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SENATE NATURAL RESOURCES
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TESTIMONY

HB 526

Before the Senate Natural Resources and Energy Committee

March 14, 2007

Mr. Chairman, Members of the Committee, I am Doug Hardy Testifying on behalf of the Montana Electric Cooperatives Association, whose members serve the electrical needs of around 400,000 Montanans. As the sponsor indicated, Montana's territorial integrity law—TIA for short—has evolved over time with the most significant changes occurring in 1997.

Prior to 1997, the utility with the closest line had the right to serve the load with one exception. That exception is for new loads larger than 400 kW (a larger commercial or industrial customer). A second exception to the assumption that the closest line has the right to serve was approved as part of the 1997 amendments. The second exception is if the new load is located in an area covered by a territorial agreement between utilities and approved by the PSC. The 1997 amendments required agreements for the planning areas of cities of 3,500 or larger. A number of these agreements are now in place for various areas across Montana.

As I mentioned, the most significant changes to TIA occurred in 1997. These changes were positive. Unfortunately, however, the changes led to many uncertainties and varying interpretations because some terms were left undefined.

HB 526 is the result of several years of cooperative and investor owned utilities working together to define terms with the goal of reducing the uncertainties. Neither entity received all it wanted but we do believe HB 526 embodies the best compromise that can be mutually supported. Equally important is that we believe this compromise is fair.

I will outline the basic changes.

The idea in 1997 was that the utility that could extend its poles and wires at the least cost would have the right to serve. However, cost and other terms such as customer premise – the measuring point to use for determining which utility has existing poles and wires closest to the new load – were not defined. This is done under House Bill 526.

In House Bill 526, cost as a factor in determining right to serve pertains only to the larger services and cost is clearly defined on Page 1, Lines 19 through 21. It is defined as cost of the line. This line is also defined in the bill so that similar construction standards are used in determining cost of the line to serve. This language protects existing consumers from financing an artificially low cost to buy a service.

A basic change in the bill eliminates the somewhat arbitrary debate of who can serve a small service at less cost. Instead, a simple measurement from the premise to be served to a power line with capacity to serve provides a better solution. This change simplifies the law and the closest utility should also be able to serve at less cost. This change is on Page 2, Lines 24-25.

The last significant improvement deals with subdivisions. Service to subdivisions is not specifically addressed in the existing TIA and the right to serve subdivisions has been a point of contention. The language in House Bill 526 defines a subdivision using definitions similar to those in other state statutes. The bill states that if two utilities are in close proximity, the utilities may work together to let one or the other serve. An alternative provided for in the bill is that electrical service to the subdivision may be divided between the two utilities based on proximity to the existing power lines.

Finally, the bill sets forth a procedure if utilities do not agree on the application of the least-cost provision for larger services, application of service to subdivisions or if they do not agree on the appropriate size of line with capacity to serve. In these situations, use of an independent engineering consultant is specified to help resolve any disagreement between the utilities.

Further, both NorthWestern Energy and the cooperative utilities have committed to enter agreements that provide greater detail in the application of this bill than would be appropriate in law. Again, we have committed to agree in a fair manner, rather than ultimately subject ratepayers to the inefficiency of disputes and duplications of poles and wires.

We believe HB 526 goes a long ways to providing greater certainty to utilities and consumers who need to make decisions to meet Montana's load growth.

Having worked on this for several years, I can go into much greater detail on any of the changes but will respectfully avoid more detail unless there are questions.

Please support HB 526 with its many improvements in territorial integrity law. Thank you for the opportunity to appear before you and I will be available for questions.